

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4673 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
Nos. 1 to 5 No.

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SAIYED ISHAK SAIYED NIZAM

Versus

COMMISSIONER OF POLICE

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Appearance:

MR MC KAPADIA for Petitioner

MR.NEEGAM SHUKLA,AGP for Respondents.

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is filed by the friend of the detenu. This Special Civil Application is directed against the order dated 22.4.1996 passed by the Police Commissioner, Surat ity whereby the detenu has been detained under the provisions of the Gujarat Prevention of Antisocial Activities Act, 1985. The

detention order was executed on 7.5.1996 and since then the detenu is under detention lodged at District Jail, Junagadh.

The grounds enclosed with the detention order show that there were 9 cases registered against the detenu under Prohibition Act. The Detaining Authority has taken into consideration the statements made by three witnesses with regard to the incidents dated 12.1.1996, 16.2.1996 and 18.3.1996 about the detenu's antisocial and criminal activities. The detenu has created an atmosphere of terror and witnesses have made a request to keep their identity secret for the reasons of their security and accordingly the privilege u/s.9(2) has been claimed. The Detaining Authority has found the detenu to be engaged in the business of unauthorised liquor and the detenu has been detained as bootlegger.

The detention order has been challenged on more than one grounds but the learned Counsel has kept his submissions confined to the question that even if all the allegations are taken to be true no case of breach of public order is made out.

In view of the reasons given in the judgment dated 4.10.1996 in Special Civil Application No. 3879 of 1996, it is clear that the allegations and material relied upon by the Detaining Authority against the detenu do not constitute the case of breach of public order and at the most it can be said to be a breach of law and order. The detention order therefore deserves to be quashed and set aside on this ground alone.

Accordingly this Special Civil Application is allowed. The impugned detention order dated 22.4.1996 passed by the Police Commissioner, Surat City is hereby quashed and set aside and the detenu's detention is declared to be illegal. The respondents are directed to release the detenu Akram Babu Ansari and set him at liberty forthwith if not required in any other case. Rule is made absolute.

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